

- ATVs and large trucks must drive no faster than 15 miles per hour.
- Trucks are required to drive above the “wet-line” on the beach so that turtle tracks can be identified.
- A backhoe or tractor must be stationed on the beach to smooth out ruts after having a monitor on an ATV check for nesting turtles or tracks.
- Larger vehicles are prohibited from traveling at night to minimize impacts on night-nesting turtles, which include the green, logger-head, hawksbill, and leatherback.

With these mitigation measures the park has successfully protected Kemp’s ridley nests. It has never documented a hatchling death, death of a nesting sea turtle, or crushing of a sea turtle nest by an oil and gas operator since the program began 25 years ago. In addition, the Kemp’s ridley population has slowly but steadily increased since the mid-1980s.

Although it is certain that the absence of mineral development at Padre Island National Seashore would lower the risk to the Kemp’s ridley’s recovery, the park has succeeded in fulfilling Congress’s directive to manage resources while recognizing the rights of mineral operators to access the surface and develop their property interest. ■

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Oil and gas management plan for Padre Island National Seashore upheld in court

By Darrell Echols and Ed Kassman

On April 17, 2002, the Sierra Club filed suit in federal district court in Texas against the Secretary of the Interior, the National Park Service, and the U.S. Fish and Wildlife Service. The Sierra Club’s complaint alleged that the National Park Service violated section 7 of the Endangered Species Act when it prepared its oil and gas management plan and also when it approved two private oil and gas operations. Specifically, the Sierra Club claimed that the Park Service was not adequately protecting Kemp’s ridley sea turtles, a federally listed endangered species. The district court ruled in favor of the National Park Service, holding that the oil and gas management plan was not subject to judicial review and that the Park Service had acted reasonably when it approved operations at the two well sites. The court also noted that the Park Service has required the company drilling the wells to adhere to extensive mitigation to protect the turtles (see page 92). The Sierra Club appealed to the Fifth Circuit Court of Appeals, which affirmed the lower court’s decision. No appeal to the Supreme Court is expected.

Since 1979 the National Park Service has managed the exercise of nonfederal oil and gas rights to avoid or minimize damage to park resources and values. In 1995, private mineral owners at Padre Island National Seashore sued the park in federal district court challenging the park’s authority to regulate the exercise of private mineral rights. In that case, the district court ruled in favor of the National Park Service, and the Fifth Circuit Court of Appeals affirmed the lower court’s determination. The Fifth Circuit’s ruling in the Sierra Club’s most recent challenge further assures Padre Island National Seashore and the National Park Service of the effectiveness of regulatory authority regarding private oil and gas activities to protect all park resources, including the endangered Kemp’s ridley sea turtle. ■

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